

Educational Materials for Process Servers



Department of
Consumer Affairs

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New York City Laws and Rules

New York City Administrative Code and Rules regarding Process Servers

Note: New York City businesses must comply with all relevant federal, state, and City laws and rules. All laws and rules of the City of New York, including the Consumer Protection Law and Rules, are available through the Public Access Portal, which businesses can access by visiting www.nyc.gov/consumers. For convenience, sections of relevant New York State Law and/or New York City Law and Rules are included as a handout in this packet. The New York City Law and Rules are current as of June 1, 2013.

Please note that businesses are responsible for knowing and complying with the most current laws, including any City Council amendments. The Department of Consumer Affairs (DCA) is not responsible for errors or omissions in the handout provided in this packet. The information is not legal advice. You can only obtain legal advice from a lawyer.

NEW YORK CITY ADMINISTRATIVE CODE TITLE 20: CONSUMER AFFAIRS CHAPTER 2: LICENSES SUBCHAPTER 23: PROCESS SERVERS

§ 20-403. License required.

- a. Process server license. It shall be unlawful for any person to do business as, be employed as or perform the services of a process server without a license therefor.
- b. Process serving agency license. It shall be unlawful for any process serving agency to assign or distribute process to individual process servers for actual service in the city of New York without a license therefore.

§ 20-404. Definition.

- a. A process server is a person engaged in the business of serving or one who purports to serve or one who serves personally or by substituted service upon any person, corporation, governmental or political subdivision or agency, a summons, subpoena, notice, citation or other process, directing an appearance or response to a legal action, legal proceeding or administrative proceedings.
- b. A process serving agency is any person, firm, partnership, association or corporation, other than an attorney or law firm located in this state, or city marshal, who maintains an office, bureau or agency, the purpose of which is to assign or distribute process to individual process servers for actual service in the city of New York.
- c. For the purposes of this subchapter the service of five or more process in any one year shall be deemed to constitute doing business as a process server.

§ 20-405. Exceptions.

- a. The provisions of this subchapter shall not apply to any employee of any city, state or federal department or agency, who is acting within the scope of his or her employment.
- b. The provisions of this subchapter shall not apply to attorneys duly admitted to practice law in the state of New York.

§ 20-406. Application; Fingerprinting.

- a. An application for such a license or renewal thereof shall be made to the commissioner on a form prescribed by him or her.
- b. The commissioner shall require that applicants for licenses issued pursuant to this subchapter be fingerprinted for the purpose of securing criminal history records from the state division of criminal justice services. The applicant shall pay a processing fee as required by the state division of criminal justice services. Fingerprints shall be taken of the individual owner if the applicant is a sole proprietorship; the general partners if the applicant is a partnership; and the officers, principals, directors, and stockholders owning more than ten percent of the outstanding stock of the corporation if the applicant is a corporation. Any person required to be fingerprinted hereunder shall furnish to the department three current passport-size photographs of such person. Notwithstanding the foregoing, the commissioner need not require applicants for licenses required under this subchapter to be fingerprinted if criminal history records concerning such applicants are not available from the state division of criminal justice services.
- c. Each such applicant for a process server license or renewal thereof shall be required to pass an examination satisfactorily. Such examination shall be under the supervision of the commissioner and shall test the knowledge of the applicant concerning proper service of process within the city of New York and familiarity with relevant laws and rules.

§ 20-406.1. Bond Required.

- a. As a condition of the issuance of a process server license, each applicant for such license or a renewal thereof shall furnish to the commissioner a surety bond executed by the applicant in the sum of ten thousand dollars, payable to the city of New York, and a surety approved by the commissioner. Such bond shall be conditioned upon the applicant's compliance with the provisions of this subchapter and any rules promulgated thereunder, and upon the further condition that the applicant will pay (i) to the city any fine, penalty or other obligation the city imposes relating to a violation of this subchapter and any rules promulgated thereunder, and (ii) to a plaintiff any final judgment recovered in an action arising out of the violation of any of the provisions of this subchapter within thirty days of its imposition. If an applicant is unable to obtain a surety bond as required by this section, and upon the provision of proof satisfactory to the commissioner of such inability, the individual applicant may, in lieu of furnishing such bond, deposit an amount of no less than one thousand dollars in a fund to be established by the commissioner to pay (i) to the city any fine, penalty or other obligation the city imposes relating to a violation of this subchapter and any rules promulgated thereunder, and (ii) to a plaintiff any final judgment recovered in an action arising out of the violation of any of the provisions of this subchapter within thirty days of its imposition.
- b. A process server licensed under this subchapter who engages in the business of serving process exclusively as an employee of a process serving agency licensed under this subchapter shall not be required to furnish a surety bond.
- c. As a condition of the issuance of a process serving agency license, each applicant for such license or a renewal thereof shall furnish to the commissioner a surety bond in the sum of one hundred thousand dollars executed by the applicant payable to the city of New York, and a surety approved by the commissioner. Such bond shall be conditioned upon the applicant's compliance with the provisions of this subchapter and any rules promulgated thereunder, and upon the further condition that the applicant will pay (i) to the city any fine, penalty or other obligation the city imposes relating to a violation of this subchapter and any rules promulgated thereunder, and (ii) to a plaintiff any final judgment recovered in an action arising out of the violation of any of the provisions of this subchapter within thirty days of its imposition.

§ 20-406.2. Responsibilities of Process Serving Agencies.

Every process serving agency licensed under this subchapter shall:

- a. Comply with all applicable state and federal laws;
- b. Be legally responsible for any failure to act in accordance with the laws and rules governing service of process by each process server to whom it has distributed, assigned or delivered process for service;
- c. Provide to each process server employed by such agency a written statement indicating the rights of such employee and the obligations of the process serving agency under city, state and federal law. Such statement of rights and obligations shall include, but not be limited to, a general description of employee rights and employer obligations pursuant to laws regarding minimum wage, overtime and hours of work, record keeping, social security payments, unemployment insurance coverage, disability insurance coverage and workers' compensation;
- d. Keep on file in its principal place of business for a period of three (3) years a statement for each employee, signed by such employee, indicating that the employee read and understood the statement of rights and obligations such employee received pursuant to subdivision (c) of this section.

§ 20-406.3. Records, Audits.

- a. Every process server and process serving agency licensed under this subchapter shall retain records in compliance with section 89-cc of the New York state general business law for no less than seven (7) years of each process served. Such records shall be retained in electronic form. Tampering with any such electronic records shall be prohibited.
- b. A process server licensed under this subchapter who engages in the business of serving process exclusively as an employee of a process serving agency licensed under this subchapter shall not be subject to the provisions of subdivision (a) of this section, but shall be required to comply with all other applicable laws.
- c. The commissioner may conduct audits of the information required to be kept pursuant to subdivision (a) of this section in order to monitor compliance with this subchapter.

§ 20-406.4. Educational Materials.

The commissioner shall develop educational materials to be provided to all process servers and process serving agencies licensed under this subchapter. Such materials shall at a minimum identify the laws and regulations pertaining to service of process in the city of New York.

§ 20-407. Fee; Term.

The biennial license fee to be paid by such persons shall be three hundred forty dollars.

§ 20-408. Rules and Regulations.

The commissioner may make and promulgate such rules and regulations as he or she may deem necessary for the proper implementation and enforcement of this subchapter.

§ 20-409. Issuance, Renewal, Suspension and Revocation of a License.

- a. A license issued hereunder may be suspended or revoked or its renewal denied by the commissioner at any time for the failure of the licensee to comply with any rule, regulation or order promulgated by the commissioner.
- b. In addition to any of the powers that may be exercised by the commissioner pursuant to this subchapter and chapter one of this title, the commissioner, after notice and an opportunity to be heard, may refuse to issue or renew, or may suspend or revoke, a license required under this subchapter if the applicant or licensee, or any of its principals, officers or directors, or any of its stockholders owning more than ten percent of the outstanding stock of the corporation has been convicted of a crime which, in the judgment of the commissioner, has a direct relationship to such person's fitness or ability to perform any of the activities for which a license is required under this subchapter or has been convicted of any other crime

which, in accordance with article twenty-three-a of the correction law, would provide a justification for the commissioner to refuse to issue or renew, or to suspend or revoke, such license.

- c. Upon application for renewal of a license issued pursuant to this subchapter, applicants subject to subdivision (a) of section 20-406.3 of this subchapter shall certify in writing compliance with the record keeping provisions of such section.

§ 20-409.1. Violations and Penalties.

Any person who, after notice and hearing shall be found guilty of violating any provision of this subchapter, shall be punished in accordance with the provisions of chapter one of this title and shall be subject to a penalty of not less than seven hundred dollars nor more than one thousand dollars for each violation.

§ 20-409.2. Civil Cause of Action.

Any person injured by the failure of a process server to act in accordance with the laws and rules governing service of process in New York state, including this subchapter and regulations promulgated thereunder, shall have a cause of action against such process server and process serving agency, which distributed or assigned process for service, in any court of competent jurisdiction for any or all of the following relief:

- a. compensatory and punitive damages, provided that punitive damages shall only be awarded in the case of willful failure to serve process;
- b. injunctive and declaratory relief;
- c. attorneys' fees and costs; and
- d. such other relief as a court may deem appropriate.

§ 20-409.3. Reporting.

Twenty-four months after the local law that added this section becomes effective, the commissioner shall submit a report to the speaker of the council regarding the effectiveness of these provisions on effectuating proper service and improving oversight over the process service industry. Such report shall include, among other things, the results of audits the commissioner has completed of process servers and process serving agencies, including information regarding their compliance with the provisions of this subchapter.

§ 20-410. Electronic Record Of Service.

A process server licensed pursuant to this subchapter shall carry at all times during the commission of his or her licensed activities and operate at the time process is served or attempted an electronic device that uses a global positioning system, wi-fi device or other such technology as the Commissioner by rule shall prescribe to electronically establish and record the time, date, and location of service or attempted service. All records created by such electronic device shall be maintained in an electronic database by the process server, or if such process server is acting exclusively as an employee of a process service agency, by the process service agency, for seven (7) years from the date such record is created.

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RULES OF THE CITY OF NEW YORK
TITLE 6: DEPARTMENT OF CONSUMER AFFAIRS
CHAPTER 2: LICENSES
SUBCHAPTER W: PROCESS SERVERS

§ 2-231. Definitions.

For the purposes of the application of Subchapter 23 of Chapter 2 of Title 20 of the Administrative Code, (unless the context indicates otherwise), the following definitions apply.

Bound volume. “Bound volume” means a book or ledger that at the time of purchase contains a specified number of unfolded sheets of paper or other material that are permanently secured to covers by stitching, glue or any other such method that is calculated to make readily discernible the removal or insertion of one or more sheets after the first use of such volume.

Chronological. “Chronological” with respect to the notation in a process server record or log means that each notation shall be entered sequentially according to the time and date of the activity recorded and without leaving any blank spaces between each entry that would allow for the insertion of any additional notation between any two entries.

Contemporaneous. “Contemporaneous” in relation to entries in records means at or near the time of the event as to which an entry is recorded, or within a reasonable time thereafter.

Engaged in the business of serving. “Engaged in the business of serving” means the following:

- (1) Service of five or more processes within the City of New York in any one calendar year; or
- (2) One who assigns, distributes, or delivers processes to another for actual service.

Image file. “Image file” in relation to scans of the records kept by process servers or process serving agencies means a file that contains graphic data such that the file is an exact replica of a specific set of data, and is saved as a portable data file (“pdf”).

Legible. “Legible” with respect to the handwriting in the record kept by process servers and in the scanned or copied images of such record means easily read and discernible in all of its details, and in no way obscured.

Paginated. “Paginated” means that each page in a volume or log, at the time of purchase, is sequentially numbered starting with the number “1” or contains an indelible label stating the number of pages the volume originally contained.

Person. “Person” shall mean any individual, firm, company, partnership, corporation, association or other organization.

Portable media device. “Portable media device” as it pertains to electronic record-keeping means an electronic data storage device used to record and store data, such as a flash memory device, CD-ROM or external hard drive.

Process. “Process” shall mean a summons, notice of petition, order to show cause, subpoena, notice, citation or other legal paper issued under the laws of the State of New York directing an appearance or response to a legal action, legal proceeding or administrative proceeding; provided, however, that if under the laws of the State of New York the mailing of such legal paper is sufficient to effect service, such legal paper shall not be process for the purpose of this subchapter.

Process Server. “Process Server” shall mean a person engaged in the business of serving process upon any person, corporation, governmental or political subdivision or agency.

Process Serving Agency. “Process serving agency” shall mean any person, firm, partnership, association or corporation, other than an attorney or a law firm located in this state, or city marshal, who maintains an office, bureau or agency, one purpose of which is to assign or distribute process to individual process servers for actual service in the City of New York.

Scanning. “Scanning” in relation to electronic record-keeping means the process of translating a document into a digital form that can be recognized by a computer. A “scan” with respect to electronic record-keeping is the image file that is created by scanning.

§ 2-232. License Requirement Exceptions.

- (a) No license under Subchapter 23 of Chapter 2 of Title 20 of the Administrative Code is required of any employee of any city, state or federal department or agency, who is acting within the scope of his employment.
- (b) No license under Subchapter 23 shall be required of any attorneys duly admitted to practice in the State of New York.
- (c) No license under Subchapter 23 shall be required of any employee of a process server or attorney who does not actually serve process.
- (d) The provisions of Subchapter 23 shall only apply to service of process within the City of New York.

§ 2-232a. Surety Bond Requirements for Process Server and Process Serving Agencies.

- (a) The surety bond required under Section 20-406.1 of the Administrative Code shall be paid in full and must be effective for the entire term of the license.
- (b) If a process server or process serving agency's surety bond lapses for any reason, the license issued pursuant to Section 20-403 of the Administrative Code shall become void for such process server or process serving agency.

§ 2-232b. Employee Exemption from Bond.

- (a) Any process server seeking exemption from the bond requirement pursuant to Section 20-406.1(a) of the Administrative Code because he or she serves process exclusively as an employee of a licensed process serving agency shall furnish to the Department upon application or renewal, a certification from the licensed process serving agency for which he or she works in a form approved by the Commissioner that affirms that
 - (1) the process server serves process exclusively as an employee of the process serving agency;
 - (2) the bond that the licensed process server agency has furnished to the commissioner is conditioned upon the process server's compliance with the laws and rules governing the activities of a process server and upon the further conditions set forth in Section 20-406.1(a) of the Administrative Code; and
 - (3) the process serving agency acknowledges that it must notify the Department in writing within five (5) days of the date that the process server ceases to serve process exclusively as an employee of the process serving agency.
- (b) The process server or the process serving agency shall provide additional documentation that the Department may seek regarding the process server's employee status.

§ 2-232c. Process Server Trust Fund.

(a) *Establishment.* There is hereby established a Process Server Trust Fund (hereinafter, “the Fund”) to provide for the payment of outstanding awards to aggrieved consumers and fines owed to the City. The Fund shall be administered by the Comptroller of the City of New York pursuant to §93(h) of the New York City Charter.

(b) *Participation in the Fund.*

- (1) To qualify for participation in the Fund, an applicant for a process server license or renewal therefore shall submit with such server's application a copy of its completed application to two sureties approved by the Commissioner for the bond required by § 20-406.1 of the Administrative Code of the City of New York and the original copies of the rejection or denial of such application by such sureties. Pursuant to such section, process serving agencies shall not be eligible to participate in the Fund.
- (2) Any process server who qualifies for participation in the fund may participate by submitting with the application for a process server license or renewal thereof a certified check or money order in the amount \$1,000, made payable to the New York City Consumer Affairs Department for depositing the amount in such Fund.
- (3) A bonded licensee may participate in the Fund in lieu of continued compliance with the bond requirement of §20-406.1(a) of such Code by submitting proof that consists of an original copy from the process server's current surety denying renewal and the completed applications and original denials from two additional sureties approved by the Commissioner, and upon submitting to the Department a certified check or money order in the amount of \$1,000 made payable to the New York City Department of Consumer Affairs, prior to the expiration or cancellation of the licensee's bond.
- (4) The required deposit to be made by applicants to participate in the Fund shall not be refundable upon the issuance of a process server license. If the Department denies issuance of a license or renewal thereof, the deposit made by the applicant shall be refunded within thirty days after the application for a license or renewal thereof is denied.
- (5) Participation in the Fund does not relieve a licensee of any obligation to pay awards or fines imposed by the Department or judgments or arbitration awards rendered against the licensee by a court of competent jurisdiction. In the event that a process server's license is revoked, surrendered or the process server fails to renew its license, and the Fund is invaded to pay an award, fine or judgment that was rendered against such process server pursuant to the provisions of the Code or these rules, no license shall be issued or reinstated to such process server unless the amount(s) paid out of the Fund on behalf of such process server is reimbursed by such process server in full.

(c) *Invasion of the Fund.*

- (1) If the Department has revoked a process server's license or the licensee has surrendered or failed to renew the license, the Commissioner may require that disbursements be made from the Fund to pay to the City any fine, penalty or other obligation the City imposes relating to the violation of subchapter 23 of Chapter 2, Title 20 of the Administrative Code of the City of New York and any rules promulgated thereunder or to pay a final outstanding judgment recovered in an action arising out of the violation of the provisions of such subchapter.
- (2) No disbursement shall be made from the Fund to pay an award, fine or judgment that is rendered against a licensee who has furnished a bond pursuant to the requirements of § 20-406.1(a) of the Administrative Code of the City of New York or against a process server who was not licensed by the Department or a participant in the Fund at the time of the violation.
- (3) Disbursement from the Fund shall be made at the discretion of the Commissioner or his or her designee, provided, however, that invasion of the fund shall be limited to no more than \$10,000 for all awards, fines or judgments arising out of a single service of process.
- (4) The Commissioner or his or her designee may order that partial payment of awards, fines, or judgments be made from the Fund.

- (5) Nothing contained herein shall be construed to limit the rights and remedies of any party, including the Department, to pursue a cause of action against a process server who is a participant in the Fund.
- (6) Nothing contained herein shall be construed to provide for the payment of awards or judgments rendered against Fund participants in personal injury actions.
- (d) *Accounting.* The Commissioner shall, by January 31 of each year, cause an accounting to be made of all of the Fund's activities during the preceding calendar year.

§ 2-232d. Testing.

Every person who applies for a process server license or renewal thereof shall be required to pass an examination prior to being issued a license or renewal. Such examination shall test the applicant or licensee's knowledge regarding proper service of process within the city of New York and familiarity with relevant laws and rules. The fee for this examination will be \$75 and is not refundable. An applicant who fails the exam on the first attempt may take the examination a second time without an additional fee. After the second successive failure, the applicant's application or renewal will be denied and he or she must reapply for a process server license.

§ 2-233. Records.

- (a) *Duty of individual licensee to keep records.* Each process server shall keep records in compliance with the provisions of 89-cc of the General Business Law, as follows:
 - (1) Each process server shall maintain a legible record of all service made by him as prescribed in this section.
 - (2) The record to be maintained shall include the following information, where applicable:
 - (i) the title of the action or a reasonable abbreviation thereof;
 - (ii) the name of the person served, if known;
 - (iii) the date and approximate time service was effected;
 - (iv) the address where service was effected;
 - (v) the nature of the papers served;
 - (vi) the court in which the action has been commenced;
 - (vii) the index number of the action, if known.
 - (3) If service is effected pursuant to subdivisions one, two, or three of section three hundred eight of the civil practice law and rules, the record shall also include the description of the person served, including, but not limited to, sex, color of skin, hair color, approximate age, height and weight and other identifying features.
 - (4) If service is effected pursuant to subdivision four of section three hundred eight of the civil practice law and rules, the record shall also include the dates, addresses and time of attempted service pursuant to subdivisions one, two or three of such section. All attempts must be entered in a separate, chronological entry.
 - (5) If an affidavit of service is filed with the court by the process server, the record shall include the date of such filing.
 - (6) Process servers shall retain each record required to be kept under this § 2-233(a) for a period of three years from the date of service. Where a process server is employed as a process server by any person, a copy of such records shall also be maintained by such person at his principal office in this state for the same period.
- (b) Licensees who serve process shall also maintain their records in the following manner:
 - (1) The licensee shall make a separate and contemporaneous entry of the date, time and address of every attempted and effected service of process in chronological order in a bound, paginated volume.
 - (2) The licensee shall make entries in only one volume at a time, which shall contain every attempted and effected service made by the licensee, until all of the available space in the volume is filled.

- (3) The written entry for each service shall include the type of service effected whether personal, substituted, conspicuous, or corporate (i.e. on the Secretary of State).
 - (4) If service is effected pursuant to CPLR § 308(4) or RPAPL § 735(1), the entry shall include a description of the area adjacent to the door to which process is affixed including the color and composition of hallway walls, color and composition of hallway floor or doorstep, and location of premises in relation to stairs, elevator or entranceway.
 - (5) If service pursuant to RPAPL § 735(1) is effected by affixing a copy of the notice and petition upon a conspicuous part of the property sought to be recovered or placing a copy under the entrance door of such premises then the record shall also include the dates, addresses and time of attempted service. All attempts must be entered in a separate, chronological entry.
 - (6) The entry shall include the name and license number of the process server organization from whom the process served was received, or, if not received from a process server organization, of such other person or firm from whom the process served was received.
 - (7) If the individual process server completes service made pursuant to RPAPL § 735(1) using registered or certified mail, the entry in the process server's record of service or attempted service shall include the postal receipt number of registered or certified mail.
 - (8) Corrections in records shall be made only by drawing a straight line through the inaccurate entry and clearly printing the accurate information directly above the inaccurate entry.
All other methods of correction, including but not limited to, erasing, opaquing, obliterating, or redacting, are prohibited.
- (c) *Duty of licensed process serving agencies to keep records.* Every process serving agency shall keep complete and accurate records with respect to each individual licensee to whom it distributes, assigns or delivers process to be served. Such records shall be kept in a searchable manner that permits ready identification of (i) the daily activity of each such individual licensee and (ii) any or all process assigned or distributed for service by the name of the person or entity from whom the process serving agency received such papers for service.
- (1) The records shall at a minimum include:
 - (i) The name and license number of the individual licensee to whom process is distributed, assigned or delivered to be served;
 - (ii) All of the information required to be maintained pursuant to paragraphs (1) through (5) of subdivisions (a) and paragraphs (3) through (5), and (7), of subdivision (b) of this rule.
 - (iii) An image file that legibly reproduces the original record in all details of the individual licensee's record maintained pursuant to subdivisions (a) and (b) of this rule for each day on which the individual licensee attempted or effected service of the process assigned to the individual licensee;
 - (iv) A copy of every routing sheet, work order or other written instruction given to the individual licensee;
 - (v) Copies of any notes, memoranda or other writings submitted by the individual licensee containing information related to the attempted or effected service of process;
 - (vi) A copy of every affidavit of service signed by the individual licensee.
 - (vii) If the individual process server or process serving agency completes service made under RPAPL § 735(1) using registered or certified mail, a record of the postal receipt number of registered or certified mail.
 - (2) *Availability of records.* All records shall be retained by the licensee for three years unless the licensee receives a further order of the Department prior to such date and shall be available for inspection by the Commissioner of Consumer Affairs or his designee.

§ 2-233a. Electronic Records.

Licensed process servers and process serving agencies must maintain records in an electronic format that is resistant to tampering.

(a) *Process Servers.* Process servers shall maintain electronic records in accordance with the provisions of this subdivision. A licensed process server may meet the requirement to maintain records in an electronic format as required by § 20-406.3 of the Administrative Code by

- (1) scanning into an image file that legibly reproduces in all details on a daily basis the original record the process server maintains in a bound volume pursuant to § 2-233,
 - (i) the image file shall be named with the date of the service recorded in the bound volume and the process server's license number, and shall be date and time stamped with the date and time that the file was created; and
 - (ii) such scanning shall be done within one business day from the last event that the record records; and
 - (iii) the process server must save the scanned image file to a portable media device at least once per week and shall maintain the portable media device in a manner designed to ensure its security and preservation, including by keeping it in a location separate from the original image file; and
 - (iv) such portable media device shall be labeled with the process server's last name, license number, and the date range of the records stored on the device; or by
- (2) maintaining electronic records in accordance with the provisions set forth in subdivision (b) of this section.
- (3) Nothing in this section shall be construed to relieve the licensed process server of the duty to maintain a bound, chronological, and contemporaneous record of service as provided under § 2-233 of this rule or an electronic record of service under § 20-410 of the Administrative Code.

(b) *Process Serving Agencies.* Process serving agencies shall maintain electronic records in accordance with this subdivision. Such agencies must maintain all information required to be maintained pursuant to § 2-233(c) of this rule.

- (1) Licensees shall input information required to be maintained pursuant to § 2-233(c) into the electronic record-keeping system within two business days after the last event recorded occurred.
- (2) The licensee shall use an electronic records management system that:
 - (i) ensures the authenticity, reliability and integrity of the electronic records;
 - (ii) permits the efficient retrieval of electronic records;
 - (iii) contains a backup support system such that the electronic records shall be capable of being reconstructed in the event of an electronic or computer malfunction or unforeseen accident resulting in the destruction of the system or the information contained therein.
- (3) The information required to be maintained pursuant to § 2-233(c)(1) shall be maintained in electronic form in a format provided by the Department as an Excel spreadsheet and accessible at the following internet address: [http:// www.nyc.gov/processserver](http://www.nyc.gov/processserver) or by the licensee uploading the data to a third party service provider, provided that the permissions of that data will be secured so that the data cannot be edited once the upload has been saved and that the records shall contain such separate fields with parameters as follow:
 - (i) name of the individual process server to whom service is assigned, which will be entered as last name, first name;
 - (ii) the license number of the individual process server to whom service is assigned, which will be specified as a seven digit number, where the first number shall be zero if the process server's license number is less than seven digits;
 - (iii) the title of the action or proceeding, if any;
 - (iv) the name of the person served, if known, which shall be entered as last name, first name;
 - (v) the date that service was effected, which shall be entered as MM/DD/YYYY;

- (vi) the time service was effected, which shall be entered as military time;
 - (vii) the address where service was effected, which shall be entered as three different fields such that one field will be for the street address and any apartment number, the second field will be for the city or borough, and the third field will be for zip code;
 - (viii) the nature of the papers served;
 - (ix) the court in which the action has been commenced, which shall be entered as either Civil Court NYC, Civil Supreme, Criminal, Housing(L/T), or District Court, followed by the county of the court, the judicial department if appellate, or the federal district;
 - (x) the full index number, which shall be entered with all information necessary to identify the case, such as XXXXX/XX, unless the case is a Civil Local matter, in which case, it will include the prefix of CV, CC, LT, MI, NC, RE, SC, or TS;
 - (xi) if service was effected pursuant to subdivisions (1) through (3) of CPLR § 308, a description of the person served which shall consist of six fields, including sex, hair color, approximate age, height, weight, and any other identifying features provided by the process server;
 - (xii) whether service was delivered, as indicated by a Y or N;
 - (xiii) the type of service effected, which shall be entered as a P for personal service, an S for substitute service, a C for conspicuous service, or a CO for corporate service;
 - (xiv) if service was effected pursuant to subdivision (4) of CPLR § 308 or subdivision one of RPAPL § 735, a description of the door and the area adjacent.
- (4) If the process serving agency elects to record the information required to be maintained pursuant to § 2-233(c)(1) itself rather than through a third-party provider, within two business days from the last event the record records it must copy the Microsoft Excel file containing such information, or a PDF of such Excel file, to a CD-ROM, DVD-ROM or other write-once media, and immediately make a second copy to write-once media, which second copy shall be stored off-site.
- (5) Licensees shall preserve the electronic records by either (a) submitting the record entries to a third party service on a daily basis or (b) copying the file to a portable media device within one week of a creation of the file. Such device must be maintained in a manner designed to ensure its security and preservation, including by keeping it in a separate off-site location. (c) Process servers shall not tamper with data or properties of any electronic record kept pursuant to this section after an image file is made by modifying, amending, deleting, rearranging or in any other way altering any such data or properties including but not limited to using a meta data scrubber or similar device or program.
- (c) If a typographical error has occurred or if data contained in the process server's record maintained under § 2-233 was accidentally omitted from the electronic data entry:
- (i) the original record must not be deleted;
 - (ii) a new record must be created and be marked “Amended” and the corrected data must be identified by entering it in italics.
- (d) All electronic records maintained under § 2-233a must be retained for seven years and must be available for inspection by the Commissioner of Consumer Affairs or his designee.

§ 2-233b. Electronic Record of Service.

- (a) *General Requirements.* A process server licensed pursuant to this subchapter must comply with the requirement of section 20-410 of the Code to carry at all times during the commission of his or her licensed activities, and operate at the time process is served or attempted, a device to establish electronically and record the time, date, and location of service or attempted service as follows:
- (1) *Equipment.*
 - (i) The process server must obtain a mobile device, such as a telephone or personal digital assistant, that utilizes the software necessary to make an electronic record of the location

where, and the time and date when, the record is made as determined by Global Positioning System (“GPS”) technology or Assisted-Global Positioning System (“A-GPS”) technology, and labels the record with the network date and time maintained by the mobile device, the DCA license number of the process server, the DCA license number of the process serving agency that has distributed the process for service, the name of the plaintiff or petitioner, the name of the defendant or respondent, the docket number (if any), the name of the person to whom process is delivered and a unique file identifier of the process being served.

- (ii) The mobile device must be equipped with the software necessary to make an electronic record of the location where and time and date when the record is made, as determined by triangulated cell tower signals, in the event that at the time of the effected or attempted service of process a GPS signal is not available.
- (iii) The mobile device software must automatically add that location, time and date information to the electronic record as soon as a GPS or cellular signal reaches the device if neither a GPS nor a cellular signal is present at the time the process server causes the electronic record to be made.

(2) *Operation of Equipment.*

- (i) On every occasion that a process server attempts or effects service of process, the process server must ensure that the mobile device makes an electronic record of the GPS location, time and date of the attempted or effected service immediately after attempting or effecting service. In the event that no GPS signal is available at the time of attempted or effected service of process, the location, time and date will be determined by triangulated cell tower signals.
- (ii) Each electronic record must be labeled with:
 - a) the GPS or cellular network date and military time maintained by the mobile device;
 - b) the DCA license number of the process server;
 - c) the DCA license number of the process serving agency that distributed the process for service;
 - d) the name of the plaintiff or petitioner;
 - e) the name of the defendant or respondent;
 - f) the docket number, if any;
 - g) the name of the person to whom process is delivered; and
 - h) a unique file identifier of the process being served.

(3) *Contract for Services.* The process server must enter into a contract with an independent third party (“the Contractor”) pursuant to which the Contractor will provide services and perform functions described in paragraph (4) of this subdivision that enable the process server to meet the data storage and retrieval requirements set forth in such paragraph, provided, however, that if the process server performs process serving activities distributed to him or her by a licensed process serving agency, the process server may utilize the device and facilities for the electronic record of service that the process serving agency obtains under a contract with a Contractor.

(4) *Data Storage and Retrieval.* The electronic record must be automatically transmitted electronically from the mobile device to the Contractor as soon as a GPS or cellular signal is available and location, date and time are entered into the electronic record. The Contractor must store the electronic record according to the following terms:

- (i) the original digital file must be maintained by the Contractor unaltered for a period of not less than seven years;
- (ii) neither the process server nor the process serving agency will be permitted to alter the original data, but may obtain copies of the original data file;

- (iii) the Contractor must maintain the records in a manner that will permit retrieval by the DCA license number of the process server, the DCA license number of the process serving agency that has distributed the process for service, the name of the plaintiff or petitioner, the name of the defendant or respondent, the docket number (if any), the name of the person to whom process is delivered and a unique file identifier of the process being served;
- (iv) the Contractor must maintain the records in a manner that will ensure that their integrity is adequate for admissibility in a judicial proceeding under the rules of evidence applicable in the state of New York;
- (v) the Contractor must produce upon request by the Department, and to any other party according to an appropriate order or subpoena, a copy of the electronic records, or any reasonably described part involved, certified to be true and accurate;
- (vi) the Contractor must provide to the Department upon request a street map in hard copy format and access to an interactive electronic street map that display the locations where the digital records were recorded with a date and time provided by GPS or cellular date and time;
- (vii) the Contractor must provide to the Department upon request, and to any other party according to an appropriate order or subpoena, such software as may be necessary to display the electronic records in an MS Excel spreadsheet, 2003 version or later, with the following fields and in the following data formats:
 - a) Plaintiff or petitioner, which must be specified by the last name of the first plaintiff, or, if not a natural person, the name of the entity, except that the field may contain the name of every plaintiff or petitioner in the case, provided that the entire record is searchable by a wildcard search of the name of any plaintiff or petitioner;
 - b) Defendant or respondent, which must be specified by the last name of the first defendant, or, if not a natural person, the name of the entity, except that the field may contain the name of every defendant or respondent in the case, provided that the entire record is searchable by a wildcard search of the name of any defendant or respondent;
 - c) the full docket number, which must be entered with all information necessary to identify the case, such as XXXXXX/XX, unless the case is a Civil Local matter, in which case, it will include the prefix of CV, CC, LT, MI, NC, RE, SC, or TS;
 - d) the date that service was effected or attempted according to the device, which must be entered as MM/DD/YYYY;
 - e) the time that service was effected or attempted according to the device, which must be entered in military time;
 - f) the date that service was effected or attempted according to GPS or cellular signals, which must be entered as MM/DD/YYYY;
 - g) the time that service was effected or attempted according to GPS or cellular signals, which must be entered as military time;
 - h) the address where service was effected or attempted, which must consist of four fields in the following order: building number, street name, city; and zip code, which must be five digits. All address information must be CASS (Coding Accuracy Support System) processed to insure its accuracy with software graded to be CASS Certified by the National Customer Support Center of the United States Postal Service;
 - i) the name of the intended recipient of the process, which must be entered in two data fields such that the first data field is the last name of the intended recipient, or,

if not a natural person, the name of the entity, and the second data field is the first name of the intended recipient if a natural person.

- j) the name of the person to whom process was delivered, which must be entered in two data fields such that the first data field is the last name of the person, and the second data field is the first name of the person.
- (b) *Provision of Equipment and Services by Process Serving Agency.* A process serving agency licensed according to this subchapter may provide to licensed process servers the device and services required by subparagraph (a) according to a contract with an independent third party. For purposes of this Rule, a third party will not be considered independent if any officer or owner of ten percent or more of the shares of the licensed process serving agency has any interest, direct or indirect, in the third party.
- (c) *Report to Department.*
 - (1) Within sixty days after the effective date of this Rule a licensed process server must submit to the Department in a form approved the Commissioner a certification that he or she has secured the contract required by this Rule and identifying the name, address and account number of the Contractor(s) providing the required device and services. After sixty days after the effective date of this Rule, no process server license will be issued or renewed unless the applicant submits such a certificate.
 - (2) A licensed process server must submit to the Department an amended certification within two days of entering into a contract with a different Contractor.
 - (3) In place of submitting the certificates required by the preceding provisions, the licensed process server may submit a certification in a form approved by the Commissioner affirmed by an owner or officer of a licensed process serving agency that the device and services the process server is required to obtain are provided by the agency under a contract with an independent third party.
- (d) *Compliance with all laws.* Compliance with the requirements of this Rule does not relieve a licensed process server of the obligation to make or maintain records required by any other federal, state, or local law, rule or regulation.

§ 2-234. Duty to Comply with Law.

The licensee shall at all times strictly and promptly conform to all laws, rules, regulations and requirements of the federal, state and municipal authorities relating to the conduct of licensees and the service of process in the State of New York and the preparation, notarization and filing of affidavits of service and other documents now in force or hereafter adopted during any license period.

§ 2-234a. Duties of Process Serving Agencies.

- (a) *Assignment of Process to Individual Process Servers.* A process serving agency shall not assign or distribute process for service to an individual process server who:
 - (1) is not licensed to serve process;
 - (2) has not complied with the requirements of Section 20-406.1 of the Administrative Code;
 - (3) does not display integrity and honesty in his or her process serving activities; and
 - (4) does not comply with the recordkeeping requirements applicable to the service of process in the City of New York, including maintaining an electronic record of service.
- (b) *Compliance Plan.* A process serving agency shall develop and implement policies and procedures set forth in a written Compliance Plan to ensure that an individual process server acts with integrity and honesty and complies with the recordkeeping requirements applicable to process servers.
 - (1) The process serving agency shall take appropriate disciplinary action against an individual process server who fails to comply with the law, including, but not limited to, suspending or terminating its employment, agency or other relationship with the individual process server;
 - (2) The policies and procedures to review the individual process server's compliance with recordkeeping requirements shall require the agency to:

- (i) at least once each month, review for completeness and accuracy the records of each individual process server to whom it assigns or distributes process;
 - (ii) prepare a monthly written report of its review of the records maintained pursuant to section 2-233 of these Rules of each individual process server to whom it assigns or distributes process during that month;
 - (iii) maintain each monthly report for at least seven years;
 - (iv) maintain records of any disciplinary actions taken against the individual licensed process server;
 - (v) report to the Department in writing the name and license number of each individual licensed process server who does not comply with the law governing process servers within ten (10) days of learning of such non-compliance;
 - (vi) make available, upon request, to the Department a copy of its record review procedures, any written reports of the reviews it maintains, and copies of any referrals of individual process servers to the Department.
- (c) *Implementation Affirmation.* A process serving agency in possession of a license issued by the Department on the effective date of this Rule shall submit an affirmation to the Department that it has adopted a written Compliance Plan within sixty (60) days of such effective date. After the effective day of this Rule, no license shall be issued or renewed until the process serving agency files with the Department an affirmation that it has adopted a Compliance Plan.
- (d) *Persons to Whom the Agency Assigns Service.*
- (1) A process serving agency must notify the Department in writing at the time of its application or renewal, or at such times as requested by the Department of:
 - (i) the names, addresses, and Department license numbers of each process server who serves process exclusively as an employee of the process serving agency; and
 - (ii) the names, addresses, and Department license numbers of each process server who serves process on behalf of the process serving agency.
 - (2) If additional process servers are assigned process by the process serving agency or a new process server is hired to serve process exclusively as an employee of the process serving agency after the date of such application or renewal, the licensee must notify the Department in writing within five (5) days of the new assignment or employee with the names, addresses and Department license numbers of such additional process servers.
 - (3) If a process server ceases to serve process exclusively as an employee of a process serving agency after the date of such application or renewal, the process serving agency must notify the Department in writing within five (5) days that the process server ceases to serve process exclusively as an employee with the name, address and Department license number of such process server.
 - (4) The process serving agency must advise the Department of any process server who is misrepresenting his or her license status or his or her compliance with the requirements of Section 20-406.1 of the Administrative Code.

§ 2-234b. Duty of Process Servers to Report Agencies That Assign Service.

- (a) A process server must report the name and license number of the process serving agency for whom he or she serves process exclusively as an employee when applying for a license or renewal thereof.
- (b) A process server must report to the Department in writing when he or she ceases to exclusively serve process as an employee of a process serving agency within five (5) days that he or she ceases such employment. The process server must include the name and license number of any other process serving agency that he serves process exclusively as an employee.
- (c) When applying for a license or renewal thereof, a process server shall report the name and license number of every process serving agency which he or she has reason to believe assigns process for service to the applicant.

- (d) A process server applying for a renewal of a licensee shall report the name and license number of every process serving agency from which it has accepted assignment of service of process within the previous two years.
- (e) A process server shall keep a list of the name and address of each process serving agency that assigns service to the process server. The process server shall maintain the list for seven years and produce it upon request by the Department.

§ 2-235. Preparation of Affidavits of Service.

No licensee shall sign or notarize or cause to be signed or notarized an affidavit of service until all factual averments have been set forth. The licensee shall include his/her license number on all affidavits of service signed by him/her. The licensee shall maintain a copy of every affidavit of service for at least seven years in electronic form or as a paper copy.

§ 2-236. Duty to Report Hearings Contesting Service.

- (a) Whenever a process server or process serving agency receives any type of notice, including an oral communication, that a court has scheduled a hearing to determine whether service of process made or assigned by such licensee was effective, the licensee shall submit a report to the Department (attention of Counsel's Office), in writing, by certified mail, or by email to an address designated by the Department within ten days of receiving such notice. Such written report shall include:
 - (1) the title and index number of the action;
 - (2) the court and the judge before whom the hearing is scheduled;
 - (3) the date(s) of the hearing; and
 - (4) the name and license number of every licensee who effected service or assigned or distributed the process for service.
- (b) On request, such licensee must provide copies of all records, including but not limited to, routing sheets, the pages of the licensee's log book for each day on which service of the process in issue was attempted or effected, and all affidavits of service, pertaining to the contested service.
- (c) (1) The licensee shall attempt to learn the result of such hearing, including any judicial order or voluntary settlement resolving the challenge to service of process, by making a written or email request to the party on whose behalf the challenged service of process was made or the party's attorney for a written report of the result of the hearing. Sixty days after the date of the scheduled hearing, if the party or its attorney has not provided to the licensee a written report of the result of such hearing, the licensee shall search for the result in the file in the office of the clerk of the court where such hearing was scheduled to occur. If the clerk's file does not contain a result sixty days after the hearing, the licensee shall search for the result in the clerk's file ninety days after the scheduled date of such hearing. (2) The licensee shall report to the Department by certified mail or email (i) within ten days of learning the result, or (ii) that it made attempts to learn the result and was unable to do so not later than one-hundred days after the scheduled date of such hearing.

§ 2-237. Wearing of Insignia Prohibited.

No licensee while serving process shall wear or display any badge, insignia, shield, medal, decoration or facsimile thereof.

§ 2-238. Use of Zip Codes.

All process mailed pursuant to the requirements of CPLR § 308(4) or RPAPL § 735(1) shall include on the envelope as

New York City Laws and Rules

New York City Administrative Code and Rules regarding License Enforcement

Note: New York City businesses must comply with all relevant federal, state, and City laws and rules. All laws and rules of the City of New York, including the Consumer Protection Law and Rules, are available through the Public Access Portal, which businesses can access by visiting www.nyc.gov/consumers. For convenience, sections of relevant New York State Law and/or New York City Law and Rules are included as a handout in this packet. The New York City Law and Rules are current as of 2011.

Please note that businesses are responsible for knowing and complying with the most current laws, including any City Council amendments. The Department of Consumer Affairs (DCA) is not responsible for errors or omissions in the handout provided in this packet. The information is not legal advice. You can only obtain legal advice from a lawyer.

NEW YORK CITY ADMINISTRATIVE CODE TITLE 20: CONSUMER AFFAIRS CHAPTER 1: LICENSE ENFORCEMENT

§ 20-101. Legislative Intent.

The council finds that for the protection and relief of the public from deceptive, unfair and unconscionable practices, for the maintenance of standards of integrity, honesty and fair dealing among persons and organizations engaging in licensed activities, for the protection of the health and safety of the people of New York city and for other purposes requisite to promoting the general welfare, licensing by the department of consumer affairs is a necessary and proper mode of regulation with respect to certain trades, businesses and industries. The council finds further that, in order to secure the above-mentioned purposes, and generally to carry out responsibilities for supervising and regulating licensed activities, trades, businesses and industries, the commissioner of consumer affairs requires powers, remedies and sanctions which are equitable, flexible and efficient. Finally, the council finds that sanctions and penalties applied by the commissioner and by the courts for the violation of laws and regulations by individuals and organizations engaging in various licensed activities, trades, businesses and industries, must be sufficient to achieve these above-mentioned purposes of licensing.

§ 20-102. Definitions.

Wherever used in this title:

- a. "Commissioner" shall mean the commissioner of consumer affairs.
- b. "Department" shall mean the department of consumer affairs.
- c. "License" shall mean an authorization by the department of consumer affairs to carry on various activities within its jurisdiction, which may take the form of a license, permit, registration, certification or such other form as is designated under law, regulation or rule.
- d. "Organization" shall mean a business entity, including but not limited to a corporation, trust, estate, partnership, cooperative, association, firm, club or society.
- e. "Person" shall mean a natural person or an organization.

- f. "Trade name" shall mean that name under which an organization or person solicits, engages in, conducts or transacts a business or activity.

§ 20-103. Construction of this Chapter and Chapter Two of this Title.

The provisions of this chapter and chapter two of this title shall be liberally construed in accordance with the legislative declaration of the city council set forth in section 20-101.

§ 20-104. Powers of the Commissioner with Respect to Licensing.

- a. The commissioner shall have cognizance and control of the granting, issuance, transferring, renewal, denial, revocation, suspension and cancellation of all licenses issued under chapter two and under all other laws conferring such powers upon him or her. The commissioner or the commissioner's designee shall collect all fees for all such licenses and permits and shall otherwise enforce the provisions of chapter two.
- b. The commissioner shall, as he or she determines necessary and appropriate, promulgate, amend and rescind regulations and rules:
1. to carry out the powers and duties of the department;
 2. to prevent and remedy fraud, misrepresentation, deceit and unconscionable dealing, and to promote fair trade practices by those engaging in licensed activities;
 3. to require adequate disclosure by those engaging in licensed activities of both the terms and conditions under which they perform licensed activities, adequate disclosure of the true names or true corporate names of licensees, and adequate disclosure of applicable local, state and federal law pertinent to consumers' interests regarding the conduct of activities licensed under chapter two;
 4. to require that licensees keep such records as he or she may determine are necessary or useful for carrying out the purposes of chapter two and, except as specifically set forth in chapter two, retain them for three years;
 5. to ensure that all persons and organizations licensed under this title have made appropriate financial disclosure, and that the premises complies with all legal requirements necessary to engage in the licensed activity;
 6. with respect to licensed activities, to protect the health, safety, convenience and welfare of the general public; and
 7. to ensure that those engaging in licensed activities do not discriminate against any person on the basis of age, sex, race, color, national origin, creed or religion in violation of city, state or federal laws.
- c. The commissioner shall compile all regulations and rules promulgated by the department and maintain a copy thereof, available for public inspection at his or her principal office at such times as that office shall be open for business. A record of each license issued indicating its kind and class, the license number, the fee received therefor and such other records as the commissioner may require shall be kept by the department.
- d. The commissioner or the commissioner's designee shall be authorized to conduct investigations, to issue subpoenas, to receive evidence, to hear complaints regarding activities for which a license is or may be required, to take depositions on due notice, to serve interrogatories, to hold public and private hearings upon due notice, to take testimony and to promulgate, amend and modify procedures and practices governing such proceedings.
- e. (1) The commissioner shall be authorized, upon due notice and hearing, to suspend, revoke or cancel any license issued by him or her in accordance with the provisions of chapter two and to impose or institute fines or civil penalties for the violation of (i) any of the provisions of chapter two of this title and regulations and rules promulgated under chapter two of this title and (ii) any of the provisions of any other law, rule or regulation, the enforcement of which is within the jurisdiction of the department including but not limited to subchapter one of chapter five of this title (the consumer

protection law) subchapter two of chapter five (the truth in-pricing-law); provided that such violation is committed in the course of and is related to the conduct of the business, trade or occupation which is required to be licensed pursuant to chapter two of this title. Except to the extent that dollar limits are otherwise specifically provided such fines or civil penalties shall not exceed five hundred dollars for each violation.

- (2) The commissioner may arrange for the redress of injuries caused by such violations, and may otherwise provide for compliance with the provisions and purposes of chapter two of this title.
 - (3) The commissioner or the commissioner's designee shall be authorized to suspend the license of any person pending payment of such fine or civil penalty or pending compliance with any other lawful order of the department.
 - (4) The commissioner shall be authorized to impose a fine or civil penalty or to suspend a license or both for a failure to appear at a hearing at the department after due notice of such hearing. If a license has been suspended, it shall be returned to the department forthwith upon receipt of the order of suspension. Failure to surrender the license shall be grounds for a fine or civil penalty or revocation of the license.
 - (5) Any of the remedies provided for in this section shall be in addition to any other remedies provided under any other provision of law.
- f. The commissioner, upon due notice and hearing, may require that persons licensed under chapter two of this title who have committed repeated, multiple or persistent violations of chapter two or any other law, rule or regulation the enforcement of which is within the jurisdiction of the department, conspicuously display at their place of business and in advertisements a notice (of a form, content and size to be specified by the commissioner), which shall describe the person's record of such violations; provided that, for each time such display is required, the commissioner may require that such notice be displayed for not less than ten nor more than one hundred days.
- g. The commissioner may refuse to issue or renew any license issued in accordance with the provisions of chapter two of this title and may suspend or revoke any such license, after due notice and opportunity to be heard, upon the occurrence of any one or more of the following conditions:
1. Two or more judgments within a two-year period against the applicant or licensee for theft of identity as defined in section three hundred eighty-s of the general business law; or
 2. One criminal conviction against the applicant or licensee for acts of identity theft or unlawful possession of personal identification information as defined in article one hundred ninety of the penal law; or
 3. Two or more criminal convictions within a two-year period of any employees or associates of the applicant or licensee for acts of identity theft or unlawful possession of personal identification information as defined in article one hundred ninety of the penal law that are committed with the use of the applicant's or licensee's equipment, data, technology, or other similar resource. It shall be an affirmative defense that a applicant or licensee did not have reasonable grounds to believe the proscribed acts were taking place with the use of the licensee's equipment, data, technology, or other similar resource or that the proscribed acts were not taking place with the use of the applicant's or licensee's equipment, data, technology, or other similar resource.

§ 20-105. Additional Powers of Commissioner with Respect to Unlicensed Activities.

- a. It shall be unlawful for any person required to be licensed pursuant to the provisions of chapter two or pursuant to provisions of state law enforced by the department to engage in any trade, business or activity for which a license is required without such license.
- b. In addition to the enforcement procedures set forth in section 20-106 of this chapter, the commissioner after notice and a hearing shall be authorized:
 1. to impose fines upon any person in violation of subdivision a of this section of one hundred dollars per violation per day for each and every day during which such person violates such subdivision.

2. to order any person in violation of subdivision a of this section immediately to discontinue such activity at the premises on which such activity is occurring.
 3. to order that such premises on which such activity is occurring be sealed, provided that such premises are primarily used for such activity.
 4. to order that any devices, items or goods sold, offered for sale available for public use or utilized in the operation of a business and relating to such activity for which a license is required but has not been obtained pursuant to the provisions of chapter two shall be removed, sealed or otherwise made inoperable.
- c. Orders of the commissioner issued pursuant to this subdivision shall be posted at the premises on which unlicensed activity occurs in violation of this section.
 - d. Orders of the commissioner issued pursuant to paragraph two, three or four of subdivision b of this section shall be stayed with respect to any person who, prior to service of the notice provided in subdivision b of this section, had submitted a full and complete application in proper form and accompanied by the requisite fee for a license or the renewal of a license while such application is pending.
 - e. Ten days after the posting of an order issued pursuant to paragraph two, three or four of subdivision b of this section and upon the written directive of the commissioner, officers and employees of the department and officers of the New York city police department are authorized to act upon and enforce such orders.
 - f. Any devices, items or goods removed pursuant to the provisions of subdivision b of this section shall be stored in a garage, pound or other place of safety and the owner or other person lawfully entitled to the possession of such devices, items, or goods may be charged with reasonable costs for removal and storage payable prior to the release of such devices, items or goods to such owner or such other person.
 - g. The commissioner shall order that any premises which are sealed pursuant to this section shall be unsealed and that any devices, items or goods removed, sealed or otherwise made inoperable pursuant to this section shall be released, unsealed or made operable upon:
 1. payment of all outstanding fines and all reasonable costs for removal and storage, and
 2. presentation of proof that a license has been obtained for such activity or, if such person or premises are for any reason ineligible to obtain a license, proof satisfactory to the commissioner that such premises, devices, items or goods will not be used in violation of this section.
 - h. It shall be a misdemeanor for any person to remove the seal on any premises or remove the seal or make operable any devices, items or goods sealed or otherwise made inoperable in accordance with an order of the commissioner.
 - i. The owner or other person lawfully entitled to reclaim the devices, items or goods removed pursuant to this section shall reclaim such devices, items or goods. If such owner or such other person does not reclaim such devices, items or goods within ninety days of their removal, such devices, items or goods shall be subject to forfeiture upon notice and judicial determination in accordance with provisions of law. Upon forfeiture the department shall, upon a public notice of at least five days, sell such forfeited devices, items or goods at public sale. The net proceeds of such sale, after deduction of the lawful expenses incurred, shall be paid into the general fund of the city.
 - j. In the event that any removal made pursuant to this section shall include any perishable items, goods or food products which cannot be retained in custody without such items, goods or food products becoming unwholesome, putrid, decomposed or unfit in any way, they may be delivered to the commissioner of health for disposition pursuant to the provisions of section 17-323 of this code.
 - k. The provisions of this section shall not be construed to apply to general vendors required to be licensed pursuant to subchapter twenty-seven of chapter two of this title.

§ 20-106. Judicial Enforcement.

- a. Except as otherwise specifically provided in chapter two of this title, or in subdivision b of this section, any person, whether or not he or she holds a license issued under chapter two, who violates any provision of chapter two or any regulation or rule promulgated under it shall, upon conviction thereof, be punished for each violation by a fine of not less than twenty-five dollars nor more than five hundred dollars, or by imprisonment not exceeding fifteen days, or both; and any such person shall be subject also to a civil penalty in the sum of one hundred dollars for each violation, to be recovered in a civil action.
- b. Any person who engages without a license therefor in an activity for which a license is required by any provision of chapter two, shall, upon conviction thereof, be subject to the following sanctions:
 1. If he or she has never held a license for such activity, he or she shall be subject to a fine of not less than twenty-five dollars, nor more than five hundred dollars, or by imprisonment not exceeding fifteen days, or both; and any such person shall be subject also to the payment of a civil penalty in the sum of the greater of twice the applicable license fee or one hundred dollars, to be recovered in a civil action.
 2. If he or she has never held a license for such activity, and has been convicted once previously for engaging in such activity without a license, or if he or she has held such license and his or her license has lapsed prior to such person's perfecting an application for a renewal, he or she shall be subject to a fine of not less than one hundred dollars nor more than one thousand dollars, or by imprisonment not exceeding thirty days, or both; and he or she shall be subject also to civil penalty in the sum of one thousand dollars, to be recovered in a civil action.
 3. If such person has held such a license, but his or her license has been suspended or revoked, or he or she has twice previously been convicted of engaging in such activity without a license, he or she shall be subject to a fine of not less than two hundred dollars nor more than two thousand dollars, or by imprisonment not exceeding sixty days, or both; and he or she shall be subject also to a civil penalty in the sum of two thousand dollars, to be recovered in a civil action.
- c. Every manager or proprietor of a business required to be licensed under chapter two who consents to, causes or allows that business to operate without a license and every person aiding such unlicensed business and every owner or lessee of any building, part of building, grounds, room or place, who leases or lets the premises for the operation of any unlicensed business or assents that the premises be used for any such purpose, is in violation of this title and shall be subject to a penalty of one hundred dollars per day for every day during which the unlicensed business operates. This penalty shall be prosecuted, sued for and recovered in the name of the city.
- d. The corporation counsel is authorized to bring an injunction proceeding to restrain or enjoin any violation of this title.

§ 20-107. Application; Filing Fee; License Fee.

All applications for licenses shall be made to the commissioner or the commissioner's designee in such form and detail as shall be prescribed. Except as specifically provided in chapter two, every application shall include the license fee for the full license term. If the license is not issued, the lesser of fifty dollars or one-half of the amount of the annual license fee shall be retained by the department as a non-returnable filing fee. In the event a license is issued for less than the full license term, the applicable fee shall be decreased proportionately to the nearest half year, except that in no case shall the fee be less than the fee for one-half year. Where a two year license is surrendered for a reason other than suspension or revocation and less than one year of the license term has expired, the licensee may apply for a refund of an amount equal to one year's license fee. Except as otherwise specifically provided for in chapter two, reference to fees, license fees or any other word of similar import shall be deemed to be the license fee for one year. Notwithstanding any inconsistent provision of this section, whenever the commissioner increases or decreases the term of a type of license pursuant to section 20-108 of this chapter, the fee for such license shall be increased or decreased proportionately and the amount of refund due upon surrender of such license before the expiration of the term for a reason other than suspension or revocation shall be prorated to the unexpired term.

§ 20-108. License Terms.

- a. The commissioner shall establish by regulation the expiration date of licenses issued pursuant to chapter two.
- b. Licenses issued pursuant to chapter two shall be for a two-year term unless otherwise specifically provided for in chapter two; provided, however, that whenever the commissioner changes the expiration date of a type of license pursuant to subdivision a of this section, he or she may also increase or decrease the term of such type of license by rule to the extent necessary to effectuate the change.

§ 20-109. Transferability.

No license issued under chapter two shall be assignable or transferable unless otherwise specifically provided by law or regulation or rule issued by the commissioner.

§ 20-110. Change of Corporate Ownership.

Where any person or organization becomes the beneficial owner of ten percent or more of the stock of an organization to which a license has been granted pursuant to chapter two, if such person or organization previously did not hold at least a ten percent interest, such license shall immediately become void unless prior written approval of the commissioner or the commissioner's designee is obtained.

§ 20-111. Change in a Partnership.

Any license issued under chapter two shall immediately become void upon the addition or termination of any general partner or upon the dissolution of a partnership unless prior written approval of the commissioner or the commissioner's designee is obtained.

§ 20-112. Address of Licensed Activity.

Except as specifically provided in chapter two, a license shall be valid only for the location designated upon the application therefor, except in the case of licenses issued for activities which in their nature are carried out at large and not at a fixed place of business. No license shall be issued for more than one location. Licensees shall, at least ten days prior thereto, notify the commissioner or the commissioner's designee by registered or certified mail, or personal service, of any change of address of the licensed premises or of the residence of the licensee.

§ 20-113. Trade Name.

A license issued under chapter two shall be valid only for activities conducted under the name of the person or organization to whom such license was issued or under the trade name stated in the application therefor; if a licensed activity is to be conducted under a trade name, the application must state that trade name. No license shall be issued for more than one trade name, and no licensed activity may be carried out under more than one such name; provided, however, that if a person or organization was engaged in bona fide licensed activities under more than one such trade name or was issued a license to conduct licensed activities under more than one trade name prior to June fifth, nineteen hundred seventy-three, a single license shall be issued for such trade names. Licensees shall notify the commissioner or the commissioner's designee of any change of trade name at least ten days before such change becomes effective, and no such change may take place without the prior written approval of the commissioner or the commissioner's designee.

§ 20-114. License Terms.

- a. All licensed vehicles or places of business shall be regularly inspected, and reports thereof shall be made to the commissioner.
- b. All licensees shall conspicuously post on their premises, licenses issued under chapter two and said licenses shall be accessible at all times for inspection by any interested person. Licensees having no fixed place of business shall exhibit their licenses upon the request of any interested person.

§ 20-115. Bonds.

Except as specifically provided in chapter two, a bond may be required for any licensed activity in a form and amount approved by the commissioner for the due observance of the provisions of chapter two and the laws, regulations and rules governing the conduct of licensed activities. The amount of the bond shall be established by the commissioner after a public hearing, five-day notice of which shall be published in the City Record.

§ 20-116. Advertising.

- a. Any person required to be licensed under chapter two or pursuant to provisions of state law enforced by the department to carry on a trade, occupation or business activity, who is not so licensed may not advertise the availability of goods and services related to the carrying on of such trade, occupation or business activity in any print publication or broadcast media having a circulation or audience within the city.
- b. The commissioner after notice and hearing shall be authorized to impose civil penalties upon any person found to have violated subdivision a of this section. Such penalties shall be levied for each broadcast of such advertisement and shall be not less than fifty dollars nor more than two hundred fifty dollars for each violation. Such penalties for printed advertisements shall be determined based on the period of time the publication in which the advertisement appears remains current. The current period shall be determined as that time when a publication is initially offered for sale until the period when the next dated publication is offered for sale. In no case shall this period be less than twenty-four hours. If the current period is:
 - daily, such penalty shall be not less than fifty dollars nor more than one hundred dollars per day;
 - weekly, such penalty shall be not less than two hundred fifty dollars nor more than three hundred fifty dollars per week;
 - greater than one week and not more than one month, such penalty shall be not less than three hundred fifty dollars nor more than five hundred dollars;
 - greater than one month, such penalty shall be not less than five hundred dollars nor more than one thousand dollars.Such civil penalties may be recovered in a civil action before any court having jurisdiction of such actions.
- c. The commissioner shall promulgate regulations requiring that any person required to be licensed under this title or pursuant to provisions of state law enforced by the department shall state in all print advertising with respect to such licensed activity the license number, and that the activity is licensed by the department.

§ 20-117. Licensee Disclosure of Security Breach; Notification Requirements.

- a. Definitions. For the purposes of this section,
 1. The term “personal identifying information” shall mean any person's date of birth, social security number, driver's license number, non-driver photo identification card number, financial services account number or code, savings account number or code, checking account number or code, brokerage account number or code, credit card account number or code, debit card number or code, automated teller machine number or code, personal identification number, mother's maiden name, computer system password, electronic signature or unique biometric data that is a fingerprint, voice print, retinal image or iris image of another person. This term shall apply to all such data, notwithstanding the method by which such information is maintained.
 2. The term “breach of security” shall mean unauthorized possession of personal identifying information that compromises the security, confidentiality or integrity of such information. Good faith or inadvertent possession of any personal identifying information by an employee or agent of the licensee for the legitimate purposes of the business of the licensee shall not constitute a breach of security.

- b. Any person required to be licensed pursuant to chapter two of this title, or pursuant to provisions of state law enforced by the department, that owns or leases data that includes personal identifying information and any person required to be licensed pursuant to chapter two of this title, or pursuant to provisions of state law enforced by the department, that maintains but does not own data that includes personal identifying information shall immediately disclose to the department and to the police department any breach of security following discovery by a supervisor or manager, or following notification to a supervisor or manager, of such breach if such personal identifying information is reasonably believed to have been acquired by an unauthorized person.
- c. Subsequent to compliance with the provisions set forth in subdivision b of this section, any person required to be licensed pursuant to chapter two of this title, or pursuant to provisions of state law enforced by the department, that owns or leases data that includes personal identifying information shall disclose, in accordance with the procedures set forth in subdivision e of this section, any breach of security following discovery by a supervisor or manager, or following notification to a supervisor or manager, of such breach to any person whose personal identifying information was, or is reasonably believed to have been, acquired by an unauthorized person.
- d. Subsequent to compliance with the provisions set forth in subdivision b of this section, any person required to be licensed pursuant to chapter two of this title, or pursuant to provisions of state law enforced by the department, that maintains but does not own data that includes personal identifying information shall disclose, in accordance with the procedures set forth in subdivision e of this section, any breach of security following discovery by a supervisor or manager, or following notification to a supervisor or manager, of such breach to the owner, lessor or licensor of the data if the personal identifying information was, or is reasonably believed to have been, acquired by an unauthorized person.
- e. The disclosures required by subdivisions c and d of this section shall be made as soon as practicable by a method reasonable under the circumstances. Provided said method is not inconsistent with the legitimate needs of law enforcement or any other investigative or protective measures necessary to restore the reasonable integrity of the data system, disclosure shall be made by at least one of the following means:
 - 1. Written notice to the individual at his or her last known address; or
 - 2. Verbal notification to the individual by telephonic communication; or
 - 3. Electronic notification to the individual at his or her last known e-mail address.
- f. Should disclosure pursuant to paragraphs one, two or three of subdivision e be impracticable or inappropriate given the circumstances of the breach and the identity of the victim, such disclosure shall be made by a mechanism of the licensee's choosing, provided such mechanism is reasonably targeted to the individual in a manner that does not further compromise the integrity of the personal information disclosed and has been approved, or is in compliance with rules promulgated, by the Commissioner.
- g. Any person required to be licensed pursuant to chapter two of this title, or pursuant to provisions of state law enforced by the department, that discards any records of an individual's personal identifying information shall do so in a manner intended to prevent retrieval of the information contained therein or thereon.
- h. Any person required to be licensed pursuant to chapter two of this title, or pursuant to provisions of state law enforced by the department, who shall violate any of the provisions of this section, upon conviction thereof, shall be punishable by a fine of not more than five hundred dollars (\$500) and shall be liable for a civil penalty of one hundred dollars (\$100) for each violation.

§ 20-118. Notification Regarding Identify Theft.

Any person, firm, partnership, corporation or association required to be licensed under chapter two, or pursuant to provisions of state law enforced by the department, shall immediately notify the department upon the occurrence of a judgment against such person, firm, partnership, corporation or association for theft of identity; a conviction of such person, firm, partnership, corporation or association of an offense specified in subdivision g of section 20-104 of this chapter; or a conviction of the person's, firm's, partnership's, corporation's or association's employees or associates for acts of identity theft or unlawful possession of personal identification information as defined in article one hundred ninety of the penal law that are committed with the use of the person's, firm's, partnership's, corporation's or association's equipment, data, technology, or other similar resource.

Note: New York City businesses must comply with all relevant federal, state, and City laws and rules. All laws and rules of the City of New York, including the Consumer Protection Law and Rules, are available through the Public Access Portal, which businesses can access by visiting www.nyc.gov/consumers. For convenience, sections of relevant New York State Law and/or New York City Law and Rules are included as a handout in this packet. The New York City Law and Rules are current as of 2012.

Please note that businesses are responsible for knowing and complying with the most current laws, including any City Council amendments. The Department of Consumer Affairs (DCA) is not responsible for errors or omissions in the handout provided in this packet. The information is not legal advice. You can only obtain legal advice from a lawyer.

RULES OF THE CITY OF NEW YORK

TITLE 6: DEPARTMENT OF CONSUMER AFFAIRS

CHAPTER 1: LICENSE ENFORCEMENT

§ 1-01. Fingerprinting.

- (a) Applicants for the following licenses and permits must appear in person at the License Issuance Division of the Department and be fingerprinted. This requirement applies to: an individual, if the applicant is an individual; the general partners, if the applicant is a partnership; and the officers, directors and stockholders owning 10 percent or more of the stock of the corporation (“principal stockholder”), if the applicant is a corporation.
- (1) Auctioneer; Night Auctioneer
 - (2) Commercial Refuse Removal
 - (3) Employment Agency; Employment Agency Manager
 - (4) Home Improvement Contractor; Home Improvement Salesman
 - (5) Junk Dealer
 - (6) Locksmith; Locksmith Apprentice; Keymaker
 - (7) Pawnbroker
 - (8) Process Server
 - (9) Secondhand Dealer
 - (10) Television, Radio and Audio Equipment Service Dealer and Service Manager
- (b) The Commissioner may, in his or her discretion, waive the fingerprint requirement if a person required to be fingerprinted is unavailable, or for other good cause shown.

§ 1-01.1. Applications.

- (a) No applicant for a license or a renewal thereof shall fail to provide complete and truthful responses to all the information requested on an application for such license or renewal thereof and any documents related thereto.
- (b) No applicant for a license or renewal thereof shall conceal any information, make a false statement or falsify or allow to be falsified any certificate, form, signed statement, application or report required to be filed with an application for a license that is to be issued by the department or for a renewal thereof.

§ 1-02. Term and Expiration Date of Licenses.

- (a) The licenses and permits listed below shall be for a two-year term and shall expire on the dates indicated:

License	Date (years refer to calendar years)
Amusement Devices, Arcades and Operators ¹	January 16 of Even Years
Auctioneer and Night Auction Sales	June 15 of Even Years
Billiard Room	August 1 of Odd Years
Booting of Motor Vehicles	December 31 of Odd Years ²
Cabaret	September 30 of Even Years
Catering Establishment	September 30 of Even Years
Debt Collection Agency	January 31 of Odd Years
Electronic or Home Appliance Service Dealers	June 30 of Even Years
Electronic Stores	December 31 of Even Years
Employment Agency	May 1 of Even Years
Garage, Parking Lot	March 31 of Odd Years
Home Improvement Contractor	June 30 of Every Odd Year
Home Improvement Salesperson	October 31 of Every Odd Year
Horsedrawn Cab	March 31 of Even Years
Horsedrawn-Cab Driver	May 31 of Even Years
Laundry	December 31 of Odd Years
Locksmith; Locksmith Apprentice	May 31 of Odd Years
Motion Picture Operators	December 31 of Even Years
Process Server	February 28 of Even Years
Products-for-the-Disabled Dealer	March 15 of Odd Years
Secondhand Dealer	July 31 of Odd Years
Sidewalk Stand ³	March 31 of Even Years
Sightseeing Bus	March 31 of Even Years
Sightseeing Guide	March 31 of Even Years
Storage Warehouse	April 1 of Odd Years
Towing Vehicles	December 31 of Odd Years 2

- (b) General vendor licenses are valid for one year. Such licenses shall expire September 30 of each year.
- (c) Newsstand licenses are valid for a two year term and shall expire on either March 31 or September 30 and in either odd or even numbered years, depending on the date designated in the license document.
- (d) After the effective date of this subdivision, the expiration dates for revocable consents and licenses to operate an unenclosed sidewalk cafe shall be as follows:
 - 1. The grant or renewal of a revocable consent to operate an unenclosed sidewalk cafe shall be for a term that expires in the second calendar year following the calendar year in which such consent is granted or renewed, and such term shall expire on the day and month in such second calendar year as specified below:
 - A. September 15 if the last digit of the license number of the sidewalk cafe ends in a number evenly divisible by three;
 - B. December 15 if the last digit of the license number of the sidewalk cafe ends in zero or in an even number that is not evenly divisible by three;
 - C. April 15 if the last digit of the license number of the sidewalk cafe ends in an odd number that is not evenly divisible by three;
 - 2. The grant or renewal during the same calendar year of a license to operate an unenclosed sidewalk cafe license as the year in which the revocable consent to operate such unenclosed sidewalk cafe is granted or renewed shall be for a term that expires on the same date on which such revocable consent expires in accordance with paragraph 1 of this subdivision.
 - 3. The licenses and revocable consents that are issued or renewed thereafter shall be for two year terms that expire on the day and month in the second calendar year of such term as specified in paragraph 1 of this subdivision.
- (e) After the effective date of this subdivision, the expiration dates for revocable consents and licenses to operate an enclosed sidewalk cafe shall be as follows:
 - 1. The grant or renewal of a revocable consent to operate an enclosed sidewalk cafe shall be for a term that expires on the day in the month and calendar year as specified below:
 - A. May 15 of the first even numbered year that is at least two years after the date such revocable consent is issued or renewed if the last digit of the license number of such sidewalk cafe is an even number; or
 - B. May 15 of the first odd numbered year that is at least two years after the date such revocable consent is issued or renewed if the last digit of the license number of such sidewalk cafe is an odd number.
 - 2. The grant or renewal during the same calendar year of a license to operate an enclosed sidewalk cafe license as the year in which the revocable consent to operate such enclosed sidewalk cafe is granted or renewed shall be for a term that expires in the same year in which such revocable consent expires in accordance with paragraph 1 of this subdivision.
 - 3. The licenses and revocable consents that are issued or renewed thereafter shall be for two year terms that expire on the day in the month in the second calendar year of such term as specified in paragraph 1 of this subdivision.
- (f) Pedicab business licenses and pedicab driver licenses are valid for one year. Pedicab business licenses shall expire November 1 of each year and pedicab driver licenses shall expire April 30 of each year.
- (g) In all instances where the license expiration dates differ from those in existence prior to the effective date of this section, or amendments thereto, the License Issuance Division of the Department shall make appropriate adjustments.

§ 1-03. Display of Sign.

- (a) Every licensee must post conspicuously at his or her place of business a sign, at least 11 inches by 17 inches with letters at least 1-inch high, reading as follows:
 If you have a complaint about this business, contact:
 the NYC Department of Consumer Affairs

Licensee: (Insert name appearing on license(s)).
Type(s) of License(s): (Identify license(s) held).
License #s: (Insert corresponding license number(s)).

- (b) Every licensee licensed to operate a sidewalk cafe pursuant to § 20-224 of subchapter 6 of Chapter 2 of Title 20 of the Administrative Code of the City of New York is also required to:
- (1) include in the sign required by subdivision a of this section, in letters and in numerals at least 1 inch high stating the maximum number of tables authorized by such license and the maximum number of chairs authorized pursuant to subdivision d of § 20-224 of the Administrative Code of the City of New York; and
 - (2) post the sign required by subdivision a of this section at a location from which it shall be visible to persons on that portion of the sidewalk that is adjacent to such licensee's sidewalk cafe.
- (c) The sign required by subdivision a of this section need not be posted on horsedrawn cabs or for licenses issued for activities which are only carried out at large and not at a fixed place of business.

§ 1-04. Display of License.

Every licensee must post conspicuously his or her license (or permit) at the licensee's place of business. This requirement does not apply to licenses issued for activities which are only carried out at large and not at a fixed place of business. A licensee having no fixed place of business must exhibit his or her license (or permit) upon the request of any person. A licensee may post a copy of the license (or permit) at the licensee's place of business only if the original is available at such place of business for inspection by any person.

§ 1-05. License Number in Advertisements and Other Printed Matter.

Any advertisement, letterhead, receipt or other printed matter of a licensee must contain the license number assigned to the licensee by the New York City Department of Consumer Affairs. The license number must be clearly identified as a New York City Department of Consumer Affairs license number and must be disclosed and disseminated in a lawful manner. Any telephone listing consisting solely of the name, address, and telephone number of the licensee need not specify the licensee's license number.

Licensees holding licenses for more than one location must also include their respective license number(s) clearly identified as New York City Department of Consumer Affairs license number(s) on all correspondence and other printed matter which contains or makes reference to one or more of such licensees' licensed location(s).

§ 1-06. Proof of Surety Bond.

No license or renewal shall be issued unless the licensee or applicant submits proof that every bond required by the Department for the license is in effect and does not expire prior to the end of the licensing period. Except where otherwise provided, all such bonds must allow any person aggrieved by the bondholder's breach of the conditions of the bond to proceed against the bond.

§ 1-07. Liability Insurance.

Every licensee required to have liability insurance must obtain a liability insurance policy that obligates the insurer to notify the License Issuance Division of the Department if the policy is canceled or if the insured fails to renew 30 days prior to the expiration of the policy.

§ 1-08. Change of Address.

A licensee shall notify the Department in writing of any change of address within 10 days of the change. This requirement applies to the address of the licensed business, and to the residence addresses of: individual licensees; all partners of partnership licensees; and the officers and principal stockholders of corporate licensees.

§ 1-09. Late Renewal.

Any application for a license renewal that is filed sixty days or more after the expiration date of such license shall be treated as a new license application.

§ 1-10. Lost or Mutilated Licenses and License Plates and Lost or Stolen Records.

- (a) *Lost License or License Plate.* A licensee shall immediately report, in an affidavit, the loss of a license or license plate issued to him or her by the Department, requesting the issuance of a new license or plate. Replacement licenses and plates are issued at the discretion of the Department.
- (b) *Mutilated License or License Plate.* Should a license or license plate issued by the Department to any licensee become mutilated or otherwise illegible, the holder of the license or plate shall promptly surrender it to the Department and request the issuance of a new license or plate. The request shall be made upon a form provided by the Department.
- (c) *Fee.* A fee of fifteen dollars (\$15) shall be charged for the issuance of a replacement license, and a fee of twenty-five dollars (\$25) shall be charged for the issuance of a replacement license plate. This fee shall be paid when the affidavit for a lost license or plate is filed or when a mutilated or otherwise illegible license or plate is surrendered and a request for the issuance of a new license or plate is filed. This fee will be refunded should the Department decide not to issue the replacement license or plate.
- (d) *Lost or Stolen Records.* A licensee shall report to the Department, in an affidavit, the loss or theft of any records required to be maintained by it under Chapters 1 and 2 of Title 20 of the New York City Administrative Code, within ten calendar days of such loss or theft.

§ 1-11. Dishonored Check Fee.

Any licensee or license applicant who, in payment of a license fee, renewal fee, fine or other fee or charge assessed by the Department, tenders or causes to be tendered to the Department a check or other item that is subsequently dishonored, shall pay to the Department, in addition to any other fees or penalties provided by law, the amount of any fee for a dishonored check or other item that is charged to the Department for such check or item.

§ 1-12. Compliance with the Consumer Protection Law.

Every licensee and applicant must comply with the Consumer Protection Law of 1969, as amended, and all regulations promulgated under that law.

§ 1-13. Response to Complaints.

A licensee or license applicant must respond in writing to the Department about any complaint sent to the licensee or applicant by the Department. The response must be made within 20 days of the date the complaint is sent to the licensee or applicant and must set forth the licensee's or applicant's position regarding the transaction which is the subject of the complaint, including the facts which the licensee or applicant believes justify its position. The licensee or applicant must respond to subsequent communications from the Department concerning the complaint within 10 days after receiving a communication.

§ 1-14. Notice of Hearing and Subpoena Duces Tecum.

A licensee must appear in person at the Department to answer a notice of hearing or a subpoena duces tecum served upon that licensee. If the licensee is an individual, he or she must appear; if a partnership, one of its general partners must appear; and if a corporation, one of its officers must appear. A notice of hearing or subpoena duces tecum may be served by ordinary mail addressed to the licensee's place of business. They may also be served by ordinary mail addressed to the residence of an individual licensee; the residence of a general partner of a partnership licensee; or the residence of an officer or principal stockholder of a corporate licensee.

§ 1-15. Judgments.

A licensee or license applicant must satisfy any outstanding judgment against him or her that has been obtained by a consumer and that relates to activities for which a license is required:

- (a) within thirty (30) days from the date of entry of the judgment; or
- (b) if the judgment has been stayed or appealed, within thirty (30) days from the date the stay is lifted or the appeal decided; or
- (c) according to a payment schedule the parties agree upon.

§ 1-16. Inspections of Records and Business Premises.

- (a) Every licensee shall maintain the records which it is required to maintain under Chapters 1 and 2 of Title 20 of the New York City Administrative Code and the regulations promulgated thereunder, and, except as otherwise set forth in said chapters or regulations, shall retain such records for three years. Licensees shall make such records available for inspection at the offices of the Department of Consumer Affairs, or at licensee's place of business, during business hours.
- (b) The Commissioner or authorized representatives of the Commissioner may enter the business premises of a licensee during business hours for the purposes of:
 - (1) Inspecting or examining licensee's place of business in order to verify compliance with the provisions of Chapters 1 and 2 of Title 20 of the New York City Administrative Code and the regulations promulgated thereunder; and
 - (2) Inspecting or examining any records or documents licensee is required to maintain pursuant to said chapters and regulations; and
 - (3) Inspecting or examining non-public areas of licensee's place of business for the purposes stated in paragraph (b)(1) above.
- (c) Inspections of the type described above will be conducted at least once in every two-year period, and additional inspections will be conducted if an inspection reveals alleged violations of Chapters 1 and 2 of Title 20 of the New York City Administrative Code or the regulations promulgated thereunder. Additional inspections shall also be conducted whenever the Department receives information alleging violation of said chapters or regulations.

§ 1-17. Wearing of Badge Prohibited.

No licensee or employee or agent of such licensee shall purchase, procure, or have made, or shall wear, display, carry, possess or exhibit any badge, insignia, shield, medal, decoration or facsimile thereof that in any way denotes, suggests, implies or could lead anyone to believe it confers or represents its wearer has an official or governmental status, except when required to do so by law or rule, nor shall a licensee in any way permit, authorize, encourage, acquiesce or consent to, any employee or agent doing so.

§ 1-18. Surrender of Identification Documents Issued by the Department.

Whenever any licensee has not renewed a license upon its expiration, such former licensee shall, within not later than 10 business days after the expiration of such license, destroy all license and identification documents that have been issued to such licensee and to any of its employees or agents.

New York General Business Law

§ 89-bb. Definitions.

For the purposes of this article:

1. A "process server" is a person, other than an attorney or a party to an action acting on his own behalf, who: (a) derives income from the service of papers in an action; or (b) has effected service of process in five or more actions or proceedings in the twelve month period immediately preceding the service in question. A person who serves interlocutory papers upon an attorney or who serves papers on behalf of a federal, state or local governmental agency in the course of his employment by such agency shall not be deemed a process server within the meaning of this article by virtue of such service.
2. A "process serving agency" is any person, firm, partnership, association or corporation, other than an attorney or a law firm located in this state, who, as owner, manager or contractor, maintains an office, bureau or agency for the purpose of assigning or distributing process to individual process servers for actual service.

§ 89-cc. Process server records.

1. Each process server shall maintain a legible record of all service made by him as prescribed in this section. Such records shall be kept in chronological order in a bound, paginated volume. Corrections in records shall be made only by drawing a straight line through the inaccurate entry and clearly printing the accurate information directly above the inaccurate entry. All other methods of correction, including but not limited to erasing, opaquing, obliterating or redacting, are prohibited.

2. The record to be maintained shall include the following information, where applicable:
 - (a) the title of the action or a reasonable abbreviation thereof;
 - (b) the name of the person served, if known;
 - (c) the date and approximate time service was effected;
 - (d) the address where service was effected;
 - (e) the nature of the papers served;
 - (f) the court in which the action has been commenced;
 - (g) the index number of the action, if known;
 - (h) if service is effectuated pursuant to subdivision four of section three hundred eight of the civil practice law and rules or subdivision one of section seven hundred thirty-five of the real property actions and proceedings law, a description of the color of the door to which the summons is affixed;
 - (i) the process serving agency from whom the process served was received, if any;
 - (j) type of service effected whether personal, substituted or conspicuous;
 - (k) if service is effected pursuant to subdivision one, two or three of section three hundred eight of the civil practice law and rules, the record shall also include the description of the person served, including, but not limited to sex, color of skin, hair color, approximate age, height and weight and other identifying features;
 - (l) if service is effected pursuant to subdivision four of section three hundred eight of the civil practice law and rules, the record shall also include the dates, addresses and time of attempted service pursuant to subdivision one, two or three of such section;

(m) if the process server files an affidavit of service with the court, his record shall include the date of such filing.

§ 89-dd. Process serving agency records.

1. Each process serving agency shall be required to keep complete and accurate records with respect to each process server to whom it distributes, assigns or delivers process to be served. Corrections in records shall be made only by drawing a straight line through the inaccurate entry and clearly printing the accurate information directly above the inaccurate entry. All other methods of correction, including but not limited to, erasing, opaquing, obliterating, or redacting, are prohibited.

2. Such records shall include, where applicable:

- (a) The name of the process server to whom process is distributed, assigned or delivered to be served;
- (b) The titles or a reasonable abbreviation thereof and index numbers of each case if filed in court by the agency;
- (c) The date that such papers were assigned for service, and the date that service was effected;
- (d) The person from whom such papers were received for service;
- (e) The date of filing of papers with the court if filed by the agency;
- (f) The type of service effected whether personal, substituted or conspicuous.

§ 89-ee. Responsibility of process serving agency and process servers.

1. It shall be unlawful for a process server to fail to comply with all legal requirements for the service of process.

2. A process serving agency shall be legally responsible for the acts of each process server to whom it has distributed, assigned or delivered process for service if it could reasonably have known that the process server was acting improperly.

3. It shall be unlawful for a process serving agency or a process server to fail to comply with all laws and regulations respecting preparation, notarization and filing of affidavits of service of process and other documents.

§ 89-ff. Affidavits of service.

It shall be unlawful for a process server to fail to set forth on any affidavit of service or process signed by him his license or registration number if such process server is required to be licensed or registered pursuant to any state or local law and the name and address of any process serving agency from whom he obtained the process for service if any.

New York Civil Practice Law and Rules

§ 306. Proof of service.

(a) Generally. Proof of service shall specify the papers served, the person who was served and the date, time, address, or, in the event there is no address, place and manner of service, and set forth facts showing that the service was made by an authorized person and in an authorized manner.

(b) Personal service. Whenever service is made pursuant to this article by delivery of the summons to an individual, proof of service shall also include, in addition to any other requirement, a description of the person to whom it was so delivered, including, but not limited to, sex, color of skin, hair color, approximate age, approximate weight and height, and other identifying features.

(c) Other service. Where service is made pursuant to subdivision four of section three hundred eight of this chapter, proof of service shall also specify the dates, addresses and the times of attempted service pursuant to subdivisions one, two or three of such section.

(d) Form. Proof of service shall be in the form of a certificate if the service is made by a sheriff or other authorized public officer, in the form of an affidavit if made by any other person, or in the form of a signed acknowledgement of receipt of a summons and complaint, or summons and notice or notice of petition as provided for in section 312-a of this article.

(e) Admission of service. A writing admitting service by the person to be served is adequate proof of service.

§ 307. Personal service upon the state.

1. Personal service upon the state shall be made by delivering the summons to an assistant attorney-general at an office of the attorney-general or to the attorney-general within the state.

2. Personal service on a state officer sued solely in an official capacity or state agency, which shall be required to obtain personal jurisdiction over such an officer or agency, shall be made by (1) delivering the summons to such officer or to the chief executive officer of such agency or to a person designated by such chief executive officer to receive service, or (2) by mailing the summons by certified mail, return receipt requested, to such officer or to the chief executive officer of such agency, and by personal service upon the state in the manner provided by subdivision one of this section. Service by certified mail shall not be complete until the summons is received in a principal office of the agency and until personal service upon the state in the manner provided by subdivision one of this section is completed. For purposes of this subdivision, the term "principal office of the agency" shall mean the location at which the office of the chief executive officer of the agency is generally located. Service by certified mail shall not be effective unless the front of the envelope bears the legend "URGENT LEGAL MAIL" in capital letters. The chief executive officer of every such agency shall designate at least one person, in addition to himself or herself, to accept personal service on behalf of the agency. For purposes of this subdivision the term state agency shall be deemed to refer to any agency, board, bureau, commission, division, tribunal or other entity which constitutes the state for purposes of service under subdivision one of this section.

§ 308. Personal service upon a natural person.

Personal service upon a natural person shall be made by any of the following methods:

1. by delivering the summons within the state to the person to be served; or
2. by delivering the summons within the state to a person of suitable age and discretion at the actual place of business, dwelling place or usual place of abode of the person to be served and by either mailing the summons to the person to be served at his or her last known residence or by mailing the summons by first class mail to the person to be served at his or her actual place of business in an envelope bearing the legend "personal and confidential" and not indicating on the outside thereof, by return address or otherwise, that the communication is from an attorney or concerns an action against the person to be served, such delivery and mailing to be effected within twenty days of each other; proof of such service shall be filed with the clerk of the court designated in the summons within twenty days of either such delivery or mailing, whichever is effected later; service shall be complete ten days after such filing; proof of service shall identify such person of suitable age and discretion and state the date, time and place of service, except in matrimonial actions where service hereunder may be made pursuant to an order made in accordance with the provisions of subdivision a of section two hundred thirty-two of the domestic relations law; or
3. by delivering the summons within the state to the agent for service of the person to be served as designated under rule 318, except in matrimonial actions where service hereunder may be made pursuant to an order made in accordance with the provisions of subdivision a of section two hundred thirty-two of the domestic relations law;
4. where service under paragraphs one and two cannot be made with due diligence, by affixing the summons to the door of either the actual place of business, dwelling place or usual place of abode within the state of the person to be served and by either mailing the summons to such person at his or her last known residence or by mailing the summons by first class mail to the person to be served at his or her actual place of business in an envelope bearing the legend "personal and confidential" and not indicating on the outside thereof, by return address or otherwise, that the communication is from an attorney or concerns an action against the person to be served, such affixing and mailing to be effected within twenty days of each other; proof of such service shall be filed with the clerk of the court designated in the summons within twenty days of either such affixing or mailing, whichever is effected later; service shall be complete ten days after such filing, except in matrimonial actions where service hereunder may be made pursuant to an order made in accordance with the provisions of subdivision a of section two hundred thirty-two of the domestic relations law;
5. in such manner as the court, upon motion without notice, directs, if service is impracticable under paragraphs one, two and four of this section.
6. For purposes of this section, "actual place of business" shall include any location that the defendant, through regular solicitation or advertisement, has held out as its place of business.

§ 309. Personal service upon an infant, incompetent or conservatee.

(a) Upon an infant. Personal service upon an infant shall be made by personally serving the summons within the state upon a parent or any guardian or any person having legal custody or, if the infant is

married, upon an adult spouse with whom the infant resides, or, if none are within the state, upon any other person with whom he resides, or by whom he is employed. If the infant is of the age of fourteen years or over, the summons shall also be personally served upon him within the state.

(b) Upon a person judicially declared to be incompetent. Personal service upon a person judicially declared to be incompetent to manage his affairs and for whom a committee has been appointed shall be made by personally serving the summons within the state upon the committee and upon the incompetent, but the court may dispense with service upon the incompetent.

(c) Upon a conservatee. Personal service on a person for whom a conservator has been appointed shall be made by personally serving the summons within the state upon the conservator and upon the conservatee, but the court may dispense with service upon the conservatee.

§ 310. Personal service upon a partnership.

(a) Personal service upon persons conducting a business as a partnership may be made by personally serving the summons upon any one of them.

(b) Personal service upon said partnership may also be made within the state by delivering the summons to the managing or general agent of the partnership or the person in charge of the office of the partnership within the state at such office and by either mailing the summons to the partner thereof intended to be served by first class mail to his last known residence or to the place of business of the partnership. Proof of such service shall be filed within twenty days with the clerk of the court designated in the summons; service shall be complete ten days after such filing; proof of service shall identify the person to whom the summons was so delivered and state the date, time of day and place of service.

(c) Where service under subdivisions (a) and (b) of this section cannot be made with due diligence, it may be made by affixing a copy of the summons to the door of the actual place of business of the partnership within the state and by either mailing the summons by first class mail to the partner intended to be so served to such person to his last known residence or to said person at the office of said partnership within the state. Proof of such service shall be filed within twenty days thereafter with the clerk of the court designated in the summons; service shall be complete ten days after filing.

(d) Personal service on such partnership may also be made by delivering the summons to any other agent or employee of the partnership authorized by appointment to receive service; or to any other person designated by the partnership to receive process in writing, filed in the office of the clerk of the county wherein such partnership is located.

(e) If service is impracticable under subdivisions (a), (b) and (c) of this section, it may be made in such manner as the court, upon motion without notice directs.

§ 310-a. Personal service upon a limited partnership.

(a) Personal service upon any domestic or foreign limited partnership shall be made by delivering a copy personally to any managing or general agent or general partner of the limited partnership in this state, to any other agent or employee of the limited partnership authorized by appointment to receive service or to any other person designated by the limited partnership to receive process, in the manner provided by law for service of summons, as if such person was the defendant. Personal service upon a limited partnership

subject to the provisions of article eight-A of the partnership law may also be made pursuant to section 121-109 of such law.

(b) If service is impracticable under subdivision (a) of this section, it may be made in such manner as the court, upon motion without notice, directs.

(c) A limited liability partnership may also be served pursuant to section 121-1505 of the partnership law.

§ 311. Personal service upon a corporation or governmental subdivision.

(a) Personal service upon a corporation or governmental subdivision shall be made by delivering the summons as follows:

1. upon any domestic or foreign corporation, to an officer, director, managing or general agent, or cashier or assistant cashier or to any other agent authorized by appointment or by law to receive service. A business corporation may also be served pursuant to section three hundred six or three hundred seven of the business corporation law. A not-for-profit corporation may also be served pursuant to section three hundred six or three hundred seven of the not-for-profit corporation law;
2. upon the city of New York, to the corporation counsel or to any person designated to receive process in a writing filed in the office of the clerk of New York county;
3. upon any other city, to the mayor, comptroller, treasurer, counsel or clerk; or, if the city lacks such officers, to an officer performing a corresponding function under another name;
4. upon a county, to the chair or clerk of the board of supervisors, clerk, attorney or treasurer;
5. upon a town, to the supervisor or the clerk;
6. upon a village, to the mayor, clerk, or any trustee;
7. upon a school district, to a school officer, as defined in the education law; and
8. upon a park, sewage or other district, to the clerk, any trustee or any member of the board.

(b) If service upon a domestic or foreign corporation within the one hundred twenty days allowed by section three hundred six-b of this article is impracticable under paragraph one of subdivision (a) of this section or any other law, service upon the corporation may be made in such manner, and proof of service may take such form, as the court, upon motion without notice, directs.

§ 311-a. Personal service on limited liability companies.

(a) Service of process on any domestic or foreign limited liability company shall be made by delivering a copy personally to (i) any member of the limited liability company in this state, if the management of the limited liability company is vested in its members, (ii) any manager of the limited liability company in this state, if the management of the limited liability company is vested in one or more managers, (iii) to any other agent authorized by appointment to receive process, or (iv) to any other person designated by the limited liability company to receive process, in the manner provided by law for service of a summons as if such person was a defendant. Service of process upon a limited liability company may also be made pursuant to article three of the limited liability company law.

(b) If service is impracticable under subdivision (a) of this section, it may be made in such manner as the court, upon motion without notice, directs.

§ 312. Personal service upon a court, board or commission.

Personal service upon a court consisting of three or more judges may be made by delivering the summons to any one of them. Personal service upon a board or commission having a chairman or other presiding officer, secretary or clerk, by whatever official title he is called, may be made by delivering the summons to him. Personal service upon a board or commission of a town or village may also be made by delivering the summons to the clerk of the town or village. Personal service upon any other board or commission shall be made by delivering the summons to any one of the members.

New York Domestic Relations Law

Chapter 14

§ 232. Notice of nature of matrimonial action; proof of service.

a. In an action to annul a marriage or for divorce or for separation, if the complaint is not personally served with the summons, the summons shall have legibly written or printed upon the face thereof: "Action to annul a marriage", "Action to declare the nullity of a void marriage", "Action for a divorce", or "Action for a separation", as the case may be, and shall specify the nature of any ancillary relief demanded. A judgment shall not be rendered in favor of the plaintiff upon the defendant's default in appearing or pleading, unless either (1) the summons and a copy of the complaint were personally delivered to the defendant; or (2) the copy of the summons (a) personally delivered to the defendant, or (b) served on the defendant pursuant to an order directing the method of service of the summons in accordance with the provisions of section three hundred eight or three hundred fifteen of the civil practice law and rules, shall contain such notice.

b. An affidavit or certificate proving service shall state affirmatively in the body thereof that the required notice was written or printed on the face of the copy of the summons delivered to the defendant and what knowledge the affiant or officer who executed the certificate had that he was the defendant named and how he acquired such knowledge. The court may require the affiant or officer who executed the affidavit or certificate to appear in court and be examined in respect thereto.

New York Real Property Actions and Proceedings Law

Sec. 735. MANNER OF SERVICE; FILING; WHEN SERVICE COMPLETE.

1. Service of the notice of petition and petition shall be made by personally delivering them to the respondent; or by delivering to and leaving personally with a person of suitable age and discretion who resides or is employed at the property sought to be recovered, a copy of the notice of petition and petition, if upon reasonable application admittance can be obtained and such person found who will receive it; or if admittance cannot be obtained and such person found, by affixing a copy of the notice and petition upon a conspicuous part of the property sought to be recovered or placing a copy under the entrance door of such premises; and in addition, within one day after such delivering to such suitable person or such affixing or placement, by mailing to the respondent both by registered or certified mail and by regular first class mail,

(a) if a natural person, as follows: at the property sought to be recovered, and if such property is not the place of residence of such person and if the petitioner shall have written information of the residence address of such person, at the last residence address as to which the petitioner has such information, or if the petitioner shall have no such information, but shall have written information of the place of business or employment of such person, to the last business or employment address as to which the petitioner has such information; and

(b) if a corporation, joint-stock or other unincorporated association, as follows: at the property sought to be recovered, and if the principal office or principal place of business of such corporation, joint stock or other unincorporated association is not located on the property sought to be recovered, and if the petitioner shall have written information of the principal office or principal place of business within the state, at the last place as to which petitioner has such information, or if the petitioner shall have no such information but shall have written information of any office or place of business within the state, to any such place as to which the petitioner has such information. Allegations as to such information as may affect the mailing address shall be set forth either in the petition, or in a separate affidavit and filed as part of the proof of service.

2. The notice of petition, or order to show cause, and petition together with proof of service thereof shall be filed with the court or clerk thereof within three days after;

(a) personal delivery to respondent, when service has been made by that means, and such service shall be complete immediately upon such personal delivery; or

(b) mailing to respondent, when service is made by the alternatives above provided, and such service shall be complete upon the filing of proof of service.

New York Business Corporation Law

§ 306. Service of process

(a) Service of process on a registered agent may be made in the manner provided by law for the service of a summons, as if the registered agent was a defendant.

(b)(1) Service of process on the secretary of state as agent of a domestic or authorized foreign corporation shall be made by personally delivering to and leaving with the secretary of state or a deputy, or with any person authorized by the secretary of state to receive such service, at the office of the department of state in the city of Albany, duplicate copies of such process together with the statutory fee, which fee shall be a taxable disbursement. Service of process on such corporation shall be complete when the secretary of state is so served. The secretary of state shall promptly send one of such copies by certified mail, return receipt requested, to such corporation, at the post office address, on file in the department of state, specified for the purpose. If a domestic or authorized foreign corporation has no such address on file in the department of state, the secretary of state shall so mail such copy, in the case of a domestic corporation, in care of any director named in its certificate of incorporation at the director's address stated therein or, in the case of an authorized foreign corporation, to such corporation at the address of its office within this state on file in the department.

(2) An additional service of the summons may be made pursuant to paragraph four of subdivision (f) of section thirty-two hundred fifteen of the civil practice law and rules.

(c) If an action or special proceeding is instituted in a court of limited jurisdiction, service of process may be made in the manner provided in this section if the office of the domestic or foreign corporation is within the territorial jurisdiction of the court.

(d) Nothing in this section shall affect the right to serve process in any other manner permitted by law.